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ADOPTION OF THE REPORT OF THE AD HOC WORKING GROUP TO THE TRADE AND DEVELOPMENT BOARD

Draft final report of the Ad Hoc Working Group on Comparative Experiences with Privatization

Text submitted by the Chairman of the Ad Hoc Working Group

CONTENTS

		Paragraphs
I.	INTRODUCTION	1 - 10
II.	AN ASSESSMENT	11 - 14
	A. Status of implementation of the work programme	11
	B. Assessment of the methods of work and of results achieved	12 - 14
III.	CONCLUSIONS AND RECOMMENDATIONS	15 - 19
	A. Dissemination of the results	15
	B. Technical and other forms of assistance	16 - 18
	C. Future work	19

Annexes:

I. Terms of reference

II. List of country submissions and panellist papers

III. Reports of the Ad Hoc Working Group and documents prepared by the secretariat

IV. List of panellists

I. INTRODUCTION

1. The Ad Hoc Working Group on Comparative Experiences with Privatization was established by the Trade and Development Board in its decision 398 (XXXVIII) in accordance with paragraph 79 of the Cartagena Commitment. In conformity with its terms of reference, as adopted by the Board (see annex I), the Ad Hoc Working Group has been entrusted with the task of reviewing the experiences of countries with privatization, considering medium- and long-term objectives of privatization processes and factors pertinent to the design and implementation of privatization programmes, elaborating basic elements for consideration in formulating privatization programmes and plans and serving as an ad hoc forum for the presentation of national programmes and plans for privatization as well as for the exchange and dissemination of relevant information.

2. The Ad Hoc Working Group has held four sessions over a period of 16 months as follows: first session, 30 November - 4 December 1992, second session, 7 - 11 June 1993, third session, 29 November - 3 December 1993 and the fourth session, 5 - 8 April 1994.

3. The Ad Hoc Working Group has benefited from the active participation of representatives and experts from both its 51 members and 39 observers. The member countries are: Algeria, Argentina, Bangladesh, Belgium, Brazil, Chile, China, Colombia, Côte d'Ivoire, Cuba, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Ghana, Greece, Guinea, Honduras, Hungary, Iran (Islamic Republic of), Iraq, Italy, Japan, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Myanmar, Netherlands, Nigeria, Norway, Pakistan, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, Sri Lanka, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Zambia and Zimbabwe.

4. The observers are: Afghanistan, Armenia, Australia, Austria, Bhutan, Bolivia, Bulgaria, Canada, Cameroon, Democratic People's Republic of Korea, Ecuador, El Salvador, Ethiopia, India, Indonesia, Ireland, Israel, Jordan, Lithuania, Madagascar, Mozambique, Nepal, New Zealand, Niger, Panama, Paraguay, Peru, Philippines, Qatar, Singapore, Slovenia, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, United Republic of Tanzania, Uruguay, Venezuela and Viet Nam.

5. The Ad Hoc Working Group has also benefited from the presence and participation of experts from specialized agencies such as the World Bank, the International Monetary Fund, the International Labour Office, United Nations Industrial Development Organization, United Nations Development Programme, the World Health Organization; intergovernmental organizations such as the European Commission, Organization of African Unity, OECD, Commonwealth Secretariat and Asian-African Legal Consultative Committee; non-governmental organizations, including the International Chamber of Commerce, International Confederation of Free Trade Unions, Public Services International, International Co-operative Alliance, International Road Transport Union, World Assembly of Small and Medium Enterprises, World Federation of Trade Unions and the World Federation of United Nations Associations and the International Air Transport Association.

6. Country studies or presentations on privatization have been submitted by Argentina, Australia, Bulgaria, Brazil, Canada, China, Colombia, the Czech Republic, Egypt, Fiji, Finland, France, Germany, Ghana, Greece, Hungary, Indonesia, Israel, Jamaica, Japan, Jordan, Lithuania, Malaysia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Pakistan, Peru, the Philippines, Poland, Portugal, Republic of Korea, Romania, Senegal, Slovakia, Slovenia, Sri Lanka, Sweden, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Venezuela. In addition, the Government of Norway has submitted a paper prepared by Norwegian consultants on the topic of "Privatization and the Environment". Further the experts serving as panellists in the work of the Ad Hoc Working Group have submitted written contributions. A full list of the country contributions and papers by panellists is given in annex II.

7. At its first session (30 November to 4 December 1992) the Working Group focused on various aspects of the design, implementation and results of privatization programmes including inter alia the role of the State, the effects of the macroeconomic environment on privatization, privatization objectives and strategy, the selection of enterprises for divestment and the results of privatization in various countries. It also adopted the work programme of the Ad Hoc Working Group.

8. At its second session (7 June - 11 June 1993) the Working Group examined in depth the objectives of privatization as a part of an overall strategy of fostering private entrepreneurship and private sector development, and their relationship to the techniques and financing of privatization. The exchanges also examined various non-divestiture and divestiture options for privatization, the promotion of transparency and accountability in the privatization process, public enterprise restructuring prior to divestment, valuation, underwriting and the different aspects and sources of financing for privatization transactions.

9. At its third session (29 November - 3 December 1993) the Working Group discussed in depth the complex issues of competition and regulation of privatized monopolies, examining subjects such as economic regulation, price and profit caps, interconnection to carrier networks of public utilities, private development of infrastructure and competitive bidding. It also extensively discussed the social impact of privatization and socially related support measures and, in this connection, the incorporation of social considerations into privatization strategies, the impact of privatization on conditions of employment and job security, the provision of infrastructure and public services and consumer welfare, as well as social support measures, including compensation measures, training and retraining, job counselling, assistance for relocation and job creation through the promotion of entrepreneurship and enterprise development.

10. At its fourth session (5 April - 8 April 1994) the Working Group debated the environmental aspects of privatization and the privatization of pension funds and examined the results of the Ad Hoc Working Group's efforts over the past 16 months. It commended the secretariat for preparing a set of indicative elements for consideration in the formulation of privatization programmes (TD/B/WG.3/7/14, to be annexed to this report), drawing on the work of the Ad Hoc Working Group.

II. AN ASSESSMENT

A. Status of implementation of the work programme

11. Of the areas indicated in the work programme adopted by the Ad Hoc Working Group a number of issues remain to be considered. These include:

[To be completed as appropriate.]

In addition, a number of additional topics have been suggested by national experts for further consideration, including ...

[To be completed as appropriate.]

B. Assessment of the methods of work and of results achieved

12. The format chosen for the Ad Hoc Working Group's sessions has been extremely successful, focusing on informal meetings, panel-led discussions on specific key topics and exchanges among national experts, including those participating as panellists. The panellists, serving in their private capacities, in addition to submitting valuable written contributions, brought their wide expertise and rich practical experiences with privatization to bear on the discussions (see annex IV for full list of panellists). The panellists, separately selected for each topic, were drawn from all geographical regions and a wide diversity of country situations. This formula of an informal in-depth dialogue assisted by expert panellists has contributed to a very constructive and polemic-free environment, setting a reflective and positive tone for all the sessions.

13. In order to assist the work of the Ad Hoc Working Group, the secretariat has prepared a number of excellent reports and issues papers, including "Design, implementation and results of privatization programmes: a cross-country review of national experiences", based on the 47 country studies and presentations; "In-depth consideration of (i) Competition and the regulation of privatized monopolies and (ii) Social impact and socially-related support measures"; "Issues relating to (a) privatization and the environment and (b) the privatization of pension funds"; and "Indicative elements for consideration in formulating privatization programmes". Furthermore, the secretariat has produced three publications of considerable practical value: a "Directory of national focal points dealing with privatization"; an annotated bibliography entitled "Public enterprise restructuring and privatization - a survey of recent literature"; and a document entitled "Activities undertaken by international organizations in the field of privatization", based on replies to an UNCTAD questionnaire. Moreover the secretariat has prepared extensive summaries of the in-depth discussions and exchanges conducted by the Ad Hoc Working Group. The summaries, which have been well received by the participants, are reproduced in the reports of the Ad Hoc Working Group. As regards the summary of the discussion on the social impact of privatization and socially related support measures, it has been considered by national experts as the first comprehensive statement of the issues involved. Further, it has been suggested that the summary, together with other relevant documents, should be

sent as a contribution to the World Summit on Social Development in 1995. Annex III gives a full list of the documents prepared by the secretariat and the reports of the Ad Hoc Working Group.

14. The rich and constructive discussions, extensive and illuminating country presentations, excellent technical papers submitted by the panellists and high-quality substantive documentation prepared by the secretariat have all contributed to the achievement of very positive and concrete results by the Ad Hoc Working Group. The conclusions reached on a wide range of issues, as well as the elements drawn from the lessons learned and insights gained from national privatization experiences, have proved invaluable in identifying the measures which work in the privatization process and the factors which can make a real difference in enhancing the design, implementation and results of privatization programmes. It is encouraging to note that the extensive documentation generated by the work of the Ad Hoc Working Group and the results achieved have already been used by countries, for example in research work and in the formulation of policy papers. In an area as complex as privatization, the importance of these accomplishments cannot be over-emphasized.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Dissemination of the results

15. The Ad Hoc Working Group decides that the document "Indicative elements for consideration in formulating privatization programmes" (TD/B/WG.3/...) should be circulated to Governments and privatization agencies for their use, as appropriate, taking into account their particular country situations. The Ad Hoc Working Group further decides that its reports should be sent to the World Summit on Social Development for its consideration, as appropriate.

B. Technical and other forms of assistance

16. The Ad Hoc Working Group notes from the secretariat's report on "Design, implementation and results of privatization programmes: a cross-country review of national experiences" (TD/B/WG.3/...) and the national presentations that both multilateral financial institutions and bilateral donor agencies have provided various types of financial and technical assistance to developing countries and countries in transition in support of activities at various stages of the privatization process. In this connection, the potential role of small and medium-sized enterprises in terms of promoting economic dynamism and employment creation is of special importance. The Ad Hoc Working Group recommends that the donor community consider strengthening its assistance in order to respond effectively to the needs of these countries.

17. The Ad Hoc Working Group recommends that technical assistance be strengthened in the following areas:

[To be completed as appropriate.]

18. The Ad Hoc Working Group notes the initiative of the UNCTAD secretariat to strengthen its technical cooperation activities in the area of privatization, taking into account requests of developing and transitional-economy countries, in order to disseminate the concrete results achieved by the Ad Hoc Working Group, and invites potential donors to consider favourably requests by the UNCTAD secretariat for the funding of such activities.

C. Future work

19. The Ad Hoc Working Group recognizes that there is a need to pursue further work in the following areas: ..... and makes the following ecommendations to the Board: ..... [To be completed as appropriate.]

Annex I

TERMS OF REFERENCE

Ad Hoc Working Group on Comparative Experiences with Privatization

Pursuant to General Assembly resolution 1995 (XIX), as amended, and to A New Partnership for Development: the Cartagena Commitment adopted at the eighth session of the United Nations Conference on Trade and Development, an Ad Hoc Working Group on Comparative Experiences with Privatization is established by the Trade and Development Board with the following terms of reference:

1. To review the experiences of countries with privatization.

2. To consider medium- and long-term objectives of privatization processes taking into account relevant factors, including the diversity of country situations, in order to promote greater efficiency in economic activities, more effective allocation of resources and the dynamism and competitiveness through restructuring of enterprises and/or economic sectors; employment creation; social benefit distribution and economic development in general.

3. To consider factors pertinent to the design and implementation of privatization programmes, such as, inter alia, overall development of the private sector; the role of the State, in particular in determining the legal and regulatory framework for privatization, and the scale and pace of the process; criteria for selecting enterprises to be privatized; the relationship between privatization and domestic financial markets; foreign investment; infrastructure; administrative capacity; patterns of ownership and control; corporate performance and competition; employee motivation; public awareness and support; mechanisms for employment creation and, in general, relationships with social development programmes.

4. To elaborate, as possible guidelines for policy makers, basic elements for consideration in formulating privatization programmes and plans.

5. To serve as a forum for the presentation of national programmes and plans for privatization as well as for the exchange and dissemination of relevant information. In that connection the Ad Hoc Working Group should seek from interested countries the presentation of information on their national experiences and draw on the experience and expertise of non-governmental actors, particularly enterprises, trade unions and the academic community.

6. The work of the Working Group should follow a progressive sequence in accordance with paragraphs 49 to 60 of the Cartagena Commitment. In line with what is set out in the Cartagena Commitment, particularly paragraphs 18 and 47, the Working Group should be inspired by the need to promote international consensus on principles and strategies for policy action at the national and international levels to enhance the development prospects of member States, particularly those of developing countries. It should provide a forum for the exchange of experiences among member States so as to enable

them to draw appropriate lessons for the formulation and implementation of policies at the national and international levels and for international economic cooperation.

7. In its work, the Working Group should take due account of the diversity of country situations and experiences. It may base its work on country reviews by the secretariat and seek from relevant countries the presentation of studies on their national experiences. It could also, depending on the issue, seek the participation of, and draw on the experience and expertise of, non-governmental actors, particularly enterprises, trade unions, the academic community and non-governmental organizations as well as representatives of international institutions.

8. The Working Group should identify for consideration areas in which technical cooperation should be strengthened.

9. The work of the Working Group should be coordinated with that of other Committees and Working Groups.

10. The work of the Working Group should complement that of other international bodies while seeking to ensure that no duplication occurs.

11. The Working Group may recommend for the consideration of the Board the establishment of expert groups.

12. The Working Group shall complete its work within two years of the adoption of its terms of reference. It may submit interim reports and shall submit a final report on the results of its work to the Trade and Development Board.

13. The frequency of sessions of the Working Group is to be decided by the Board in accordance with the existing procedures concerning the calendar of meetings. The duration of the sessions should be of five days or less.

Annex II

LIST OF COUNTRY SUBMISSIONS AND PANELLIST PAPERS

List of country presentations:

Symbols		Languages
UNCTAD/DSD/Misc.9	Presentation of national experiences with privatization:	English/French
	Argentina	
	Czech Republic	
	France	
	Germany	
	Greece	
	Hungary	
	Korea, Republic of	
	Malaysia	
	Poland	
	Senegal	
	Tunisia	
	Tanzania, United Republic of	
	United States of America	
TD/B/WG.3/Misc.41	Country presentations and statements:	
	China	English
	Israel	English
	Japan (JNR Reform)	English
	Slovenia	English
	Romania	English
	United Kingdom (The UK experience of telecommunications regulation)	English
TD/B/WG.3/Misc.2	Venezuela	English/Spanish
TD/B/WG.3/Misc.3	Jordan	Arabic/English
TD/B/WG.3/Misc.4	Peru	English/Spanish
TD/B/WG.3/Misc.5	Colombia	English/Spanish
" " /Add.1	"	English/Spanish

" " /Rev.1	"			Spanish	
TD/B/WG.3/Misc.6	Australia		English		
TD/B/WG.3/Misc.7	Bulgaria		English		
TD/B/WG.3/Misc.8	Finland		English		
TD/B/WG.3/Misc.9	Germany		English		
" /Add.1	"		"		
TD/B/WG.3/Misc.10	Indonesia		English		
TD/B/WG.3/Misc.11	Jamaica		English		
TD/B/WG.3/Misc.12	Lithuania		English		
TD/B/WG.3/Misc.13	Morocco		English		
TD/B/WG.3/Misc.14	Netherlands			English	
" /Add.1	"			"	
TD/B/WG.3/Misc.15	New Zealand			English	
TD/B/WG.3/Misc.16	Poland	English			
TD/B/WG.3/Misc.17	Portugal	English			
TD/B/WG.3/Misc.18	Thailand	English			
TD/B/WG.3/Misc.19	Turkey	English			
TD/B/WG.3/Misc.20	United Kingdom			English	
TD/B/WG.3/Misc.21	France	French			
TD/B/WG.3/Misc.22	Niger	French			
TD/B/WG.3/Misc.24	Sri Lanka	English			
TD/B/WG.3/Misc.25	Ghana	English			
TD/B/WG.3/Misc.26	Nigeria		English		
TD/B/WG.3/Misc.27	Republic of Korea				English
TD/B/WG.3/Misc.28	Egypt		English		
TD/B/WG.3/Misc.29	Brazil		English		
" /Add.1	"		"		
TD/B/WG.3/Misc.31	United States of America		English		
TD/B/WG.3/Misc.32	Greece		English		
TD/B/WG.3/Misc.33	The Philippines				English
TD/B/WG.3/Misc.34	Pakistan		English		
TD/B/WG.3/Misc.35	Sweden		English		
TD/B/WG.3/Misc.37	Slovakia		English		
TD/B/WG.3/Misc.38	Canada		English		
TD/B/WG.3/Misc.40	Fiji		English		
TD/B/WG.3/Misc.39	Norway		English		
	(Privatization and the environment)				

List of panellists papers

Techniques and financing of privatization

Amb.Dr. J.C. Sanchez Arnau	Argentina	Privatization in Argentina
Mr. Thomas Janicki	Germany	Techniques and financing of privatization - some basic observations from the German perspective
Mr. Tissa J.M. Jayasinghe	Sri Lanka	Techniques and financing of privatization: Guidelines
Dr. G. F. Mbowe	Tanzania	Transitional support to reforming enterprises
Mr. Neil Murdoch	United States	Techniques and financing of privatization
Dr. Alexandre D. Radygin	Russian Federation	Russian model of privatization

Competition and regulation

Ms. Khamarzan Ahmed Meah	Malaysia	Competition and regulation
Mr. Adrian van der Ven	Netherlands	Competition and the regulation of privatized and corporatized monopolies in the Netherlands
Mr. James A. Waddell	United States	Infrastructure privatization
Mr. Pierre Guislain	World Bank	Divestiture of State enterprises - an overview of the legal framework
Mr. Andrzej Szablewski	Poland	Restructuring and regulatory reform in the Polish energy sector
Mr. Lucas Danho	Côte d'Ivoire	Privatisation du service de télécommunications en Côte d'Ivoire - Problèmes et approches de solutions

Social aspects of privatization

Mr. Brendan Martin	ICFTU/PSI	Towards a new privatization paradigm
Mr. Tissa J.M. Jayasinghe	Sri Lanka	The social impact of privatization
Mr. Jorge Botero	Acción Internacional	Impact of non-governmental organizations on the development of informal economic sectors in Latin America

Annex III

REPORTS OF THE AD HOC WORKING GROUP AND DOCUMENTS PREPARED BY THE SECRETARIAT

Symbols

1. **Reports of the Ad Hoc Working Group on Comparative Experiences with Privatization:**

TD/B/WG.3/5 A/C/E/F/R/S	Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its first session
TD/B/WG.3/9 A/C/E/F/R/S	Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its second session
TD/B/WG.3/13 A/C/E/F/R/S	Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its third session

2. **Reports and notes by the UNCTAD secretariat:**

TD/B/WG.3/7 & Rev.1 & Rev.2 A/C/E/F/R/S	Design, implementation and results of privatization programmes: a cross-country review of national experiences Report by the UNCTAD secretariat
TD/B/WG.3/11 A/C/E/F/R/S	In-depth consideration of: (i) Competition and the regulation of privatized monopolies (ii) Social impact and socially related support measures Issues paper by the UNCTAD secretariat
TD/B/WG.3/7/Rev 2/Add.1 A/C/E/F/R/S	Issues relating to:

(a) privatization and the environment
(b) privatization of pension funds

Note by the UNCTAD secretariat

3. **Background documents:**

UNCTAD/DSD/Misc.6 English	Public enterprise restructuring and privatization - an annotated bibliography: Prepared by the UNCTAD secretariat
UNCTAD/DSD/Misc.8/Rev.2 English	Directory of national focal points dealing with privatization: Prepared by the UNCTAD secretariat
UNCTAD/DSD/Misc.23/Add.1 English	Activities undertaken by international organizations in the field of privatization; Replies to the UNCTAD questionnaire
UNCTAD/DSD/Misc.11 English	Public enterprise restructuring and privatization - a survey of recent literature Prepared by the UNCTAD secretariat

Annex IV

LIST OF PANELLISTS

Second session (7-11 June 1993):

Embajador Dr. Juan Carlos Sanchez Arnau
Subsecretario de Privatizaciones
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Ministry of Finance
Dar-es-Salaam, Tanzania

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Dr. Alexandre D. Radygin

Chief of Privatization Division
Institute for Economy in Transition
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Russian Federation

Third session (29 November - 3 December 1993):

Panel on competition and regulation:

Amb. Dr. Juan Carlos Sanchez Arnau
Chief of Advisory Staff,
Ministry of Economy
Buenos Aires, Argentina

M. Lucas Danho
Vice-Président
Comité de privatisation et de restructuration du secteur parapublic
Coordinateur de la Cellule Technique
Cabinet du Premier Ministre
Abidjan, Côte d'Ivoire

Ms. Khamarzan Ahmed Meah
Economic Planning Unit
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Jalan Dato Onn
50502 Kuala Lumpur, Malaysia

Mr. Andrzej Szablewski
Anti-monopoly Office
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00-950 Warsaw 1, Poland

Mr. Adrian van der Ven
Ministry of Finance
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Postbus 20201
2500 EE Den Haag, Netherlands

Mr. James A. Waddell
Executive Director
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Panel on social support measures:

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Directeur chargé de la Privatisation
Direction des enterprises publiques
Premier Ministère

Mr. Pierre Guislain
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